

**Inner City Press
Community on the Move**

**&
Inner City Public Interest Law Project**

DOCKET FILE COPY ORIGINAL

January 2, 1998

VIA FEDERAL EXPRESS

Federal Communications Commission
Attn: Mr. William Caton, Acting Secretary
1919 M Street, N.W.
Washington, D.C. 20554

RECEIVED

JAN 5 1998

Re: ICP's Attached Petition to Deny Applications of
WorldCom, Inc. and MCI Communications Corporation for
Transfer of Control of MCI Communications Corporation
to WorldCom, Inc. (CC Docket No. 97-211)

FEDERAL MAIL ROOM

Dear Acting Secretary Caton:

On behalf of Inner City Press/Community on the Move and its affiliates and members ("ICP"), attached please find a timely petition to deny the above-captioned Applications. For the reasons set forth in the attached, the Applications should be denied.

An original and four (4) copies of the petition to deny are enclosed for filing. Copies of the petition to deny have also been mailed as specified in the Commission's public notice of November 25, 1997. ICP is also providing a courtesy copy of this petition to deny to the WorldCom counsel who sent a copy of the Application to ICP, and to an FCC staffer. See note 1 of the attached. Please date-stamp the enclosed extra copy of the petition to deny and return it in the self-addressed stamped envelope provided herein.

If you or any staff member of the Commission have any questions, please do not hesitate to telephone the undersigned, at (718) 716-3540.

Very Truly Yours,

Matthew Lee
Matthew Lee
Executive Director

OK

DOCKET FILE COPY ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Applications of WorldCom, Inc. and)
MCI Communications Corporation for) CC Docket
Transfer of Control of MCI Communications) No. 91-211
Corporation to WorldCom, Inc.)

RECEIVED

Petition to Deny

filed by

JAN 5 1998

Inner City Press/Community on the Move
FCC MAIL ROOM

January 2, 1997

Matthew R. Lee, Esq.
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I. Preliminary Statement

On behalf of Inner City Press/Community on the Move and its members and affiliates (collectively, "ICP"), a consumers' organization headquartered in the Bronx, New York, this is a petition to deny the Applications of WorldCom, Inc. ("WorldCom") and MCI Communications Corporation ("MCI") for transfer of control of MCI to WorldCom. ICP contends that this proposed merger would have substantial anticompetitive effects in, at a minimum, the long distance and internet backbone product markets, and that the Application does not carry its burden of demonstrating that the proposal would be in the public interest, including that it would preserve and enhance universal service.

MCI is currently #2, and WorldCom #4, on the long-distance product market. The merger would be anticompetitive, and should be denied. The effect would be worse in the important internet backbone product market: WorldCom's subsidiary, UUNet Technologies, Inc. ("UUNet") has been rapidly acquiring backbone Internet Service Providers ("ISPs"), with little to no regulatory or antitrust scrutiny. If this proposed merger were approved, "50-55% of backbone Internet traffic will pass over facilities owned by ... WorldCom." See, Kenneth Cukier, MCI-WorldCom Faces Internet Probe, CommunicationsWeek International, Nov. 24, 1997. As explained in more detail *infra*, this could and foreseeably would lead to higher prices to consumers, and, along with the other deficiencies of the Application and proposal, would NOT "preserv[e] and enhanc[e] universal service."

The foreseeable substantial lessening of competition is grounds enough to deny the Applications; beyond that, ICP contends that under its flexible "public interest, convenience and necessity" standard, and Section 254 of the Telecommunications Act of 1996 (the "1996 Act"), the particularly grave effect on, and the Applicants' current exclusion or avoidance (redlining) of, lower-income consumers, in both the telephone/long-distance and internet product markets, can and must be considered by the Commission, by denying this proposed merger.

The New York Times' November 11, 1997, analysis piece, "The Battle for MCI: The Consumers," reported that "[t]he first group of households likely to be offered one-stop shopping for bundled phone, Internet and other services will be the 16 million affluent households with incomes of \$75,000 or more. They run up higher phone bills and they have personal computers connected to the Internet."

Approval of this proposal would have effects and continue trends that Congress directed the FCC to mitigate and reverse in the 1996 Act: the (telecom / information) rich get richer; the (telcom / information) poor get poorer. Congress in the 1996 Act charged the FCC "to make available, so far as possible, to all the people of the United States without discrimination on the basis of race, color, religion, national origin, or sex a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges...". Congress expressed particular concern for low-income consumers, directing the FCC to ensure that consumer in every region -- including low-income consumers and those in rural areas -- should have access to telecommunications and information services at reasonable costs. Section 254 of the 1996 Act.

Allowing MCI and WorldCom to combine rather than compete would result in higher, unreasonable costs to consumers, particularly, as demonstrated below, low-income residential consumers. WorldCom is openly more focused on business customers than residential consumers; even where the Applicants do target residential customers, they avoid, exclude, or "leave for later" (see *supra*) the lower-income communities of color whom the 1996 Act's universal service provisions are particularly meant to protect and benefit.

Thus, the claimed benefit of the merger -- bundled services, "one stop shopping" -- would be targeted to more affluent customers, *inter alia* because they are more likely to be on the internet already. This merger (1) would bring few benefits to any residential consumers, and (2) would bring NO benefits to the lower income consumers that are a major focus of the universal service provisions of the 1996 Act.

The foreseeable lessening of competition would not be offset by any benefit to residential, particularly lower income, consumers. Approval of this merger, as proposed, would not secure for, but would rather deny to "the public the broad aims of the Communications Act." Western Union Division, Commercial Telegraphers' Union, A.F. of L. v. United States, 87 F.Supp. 324, 335 (D.C.C.), *aff'd*, 338 U.S. 864 (1949). Expedited treatment of the applications would be inappropriate; the Applications should be amended or supplemented, and/or a hearing (which ICP is requesting) should be held on these issues. As currently proposed, this merger should be denied.

II. Procedural Posture

On November 25, 1997, the Federal Communications Commission (the "FCC" or the "Commission") issued a public notice of WorldCom's amended application to acquire MCI, and setting the deadline for the filing of petitions to deny and/or comments as January 5, 1997. This petition to deny, which is being sent to the Secretary of the FCC by Federal Express on January 2, 1997, is timely.¹ While the FCC's November 25, 1997, public notice did not specify a deadline for reply comments, ICP hereby informs the Commission of its intent and desire to file a reply to whatever opposition or

¹ On December 31, 1997, ICP's executive director telephoned FCC Common Carrier Bureau ("CC Bureau") staff, inquiring into the requirements for filing a timely petition to deny the Applications. ICP was informed that transmitting copies to the Secretary by delivering them to Federal Express on January 2, 1998, would make the filing timely, and that copies to others could be placed in regular mail on January 2, 1998. ICP asked for a service list, if any, but none was provided. Nevertheless, ICP is providing a courtesy copy of this petition to deny to the WorldCom counsel who sent a copy of the Application to ICP, and ICP is, as requested, faxing a courtesy copy of this petition to deny to the attention of Mr. Gregory Cooke of the Network Services Division of the CC Bureau, at fax number (202) 418-2345, on the evening of January 2, 1998. This petition to deny is timely.

response the Applicants may file, within two weeks of January 26, 1997.

III. The Commission's Duties in this Proceeding

Pursuant to Sections 214(a) and 310(d) of the Communications Act of 1934, as amended (the "Communications Act"), the Commission can not approve the transfer of licenses and other authorizations that underlie the proposed merger unless the Commission finds, on substantial evidence, that the transaction is in the public interest, convenience and necessity. Under this public interest standard, Applicant must show *inter alia* that their proposed combination (1) would further the implementation of Congress' "pro-competitive, de-regulatory national policy framework" for telecommunications, and (2) would "preserv[e] and advanc[e]" universal service. See, e.g., In Re Application of NYNEX Corp., Transferor, and Bell Atlantic Corp., Transferee, for Consent to Transfer Control of NYNEX Corporation and its Subsidiaries, Memorandum Opinion and Order, File No. NSD-L-96-10, FCC 97-286 (released August 14, 1997) (the "BA/NYNEX Order") at Para. 2 and notes 3 and 4 thereto. This standard is to be "so construed as to secure for the public the broad aims of the Communications Act." See, e.g., Western Union Division, Commercial Telegraphers' Union, A.F. of L. v. United States, *supra*.

While WorldCom's application minimizes or ignores this point, FCC officials have, while requesting anonymity, confirmed that the Commission will have to assess and address the internet backbone product market.

CommunicationsWeek International of November 24, 1997

("Internet Probe," see *supra*) reported: "'It's not just the long distance network, but the implications for the internet

backbone,' said a wellplaced official at the Federal Communications Commission, who asked to remain anonymous. 'The Commission will have to think very directly on what the implications will be.' Other FCC officials confirmed that the Commission will examine the matter, but say it is too early to know if it might reject the deal or place conditions on the new company. Either way, it will make the first time the FCC has formally examined [a] 'merger's effect on competition on the backbone,' said an FCC official."

Particularly because this proceeding will, according to FCC officials, be the first time the Commission considers the accelerating concentration of market power in the internet backbone product market, the issue must be closely scrutinized, on a non-expedited basis, including with hearings and the extended comment / reply period ICP is requesting.

IV. COMBINATION OF THE SECOND AND FOURTH LARGEST PROVIDERS OF LONG DISTANCE SERVICE WOULD BE ANTICOMPETITIVE

While the anticompetitive domination of the internet backbone product market, and WorldCom's disdain for residential, particularly lower income, customers are at least as if not more pressing, it must be noted that the Applicants propose to combine the second and fourth most powerful competitors in the long distance market -- something that is presumptively anticompetitive.

MCI openly and unabashedly fights to keep other potential competitors out of the long-distance business, to maintain the anticompetitive market power that its proposed combination with WorldCom would only exacerbate. See, e.g., Jeannine Aversa, "MCI Challenges Ameritech Testing of Long-Distance Service," Associated Press, Aug. 11, 1997, 18:52

EST; MCI statement on PRNewswire of Dec. 24, 1997, 13:04 EST, applauding BellSouth being kept out of the long distance service market in South Carolina. See also A.P. of Dec. 23, 1997, 15:51 EST: "The FCC, backed by AT&T and MCI, defended" the rules making it difficult for the Baby Bells to offer long-distance service to local customers. Intervention and *amicus* briefs aside, the FCC must in this proceeding closely scrutinize MCI's and WorldCom's market power in the long distance and internet backbone product markets.

Add to this *per se* anticompetitive effect (combining #2 and #4 in the long distance product market) the analysis that MCI and WorldCom both "cherry pick" only the most lucrative customers for long distance service (see, e.g., "Cherries Delivered to 'Cherry Picking' Long Distance Companies," Washington Telecom Newswire, November 10, 1997), and the adverse effect, particular on lower income residential customers, is accentuated.

See also, "Let All Compete in Long Distance Market," (New Orleans) Times-Picayune, Dec. 11, 1997, at B6: "It is difficult... to believe that the Federal Communications Commission and Department of Justice would even consider approving the MCI/WorldCom merger while at the same time keeping local telephone companies like BellSouth out of the long distance market. If we ever expect to see the full benefits of the Telecommunications Act of 1996, we need to allow all companies to compete in all markets, and **THEN** merger mergers occur. With MCI, WorldCom will become... the undisputed leader in Internet technology... Local residential customers will not benefit from this merger. In local service markets, MCI/WorldCom will **STILL** focus on business customers. The revenue MCI/WorldCom generates from

business customers will allow it to underwrite construction of its data network, which will be designed to deliver new services to additional business customers. The MCI/WorldCom merger should be approved ONLY WHEN the BellSouths of the world are allowed to compete in the long distance business." Emphasis added.

V. THIS PROPOSED MERGER WOULD GIVE WORLDCOM AN
ANTICOMPETITIVE HOLD ON THE BACKBONE OF THE INTERNET

As noted above, WorldCom's subsidiary UUNet has been rapidly acquiring ISPs with little to no regulatory or antitrust scrutiny. UUNET has "over 1,000 Points of Presence throughout the United States and in Canada, Europe and the Asia-Pacific Region." WorldCom press release on PRNewswire, Dec. 15, 1997, 18:13 EST. By its own account, MCI "operates one of the world's most advanced Internet networks." MCI press release on PRNewswire, Dec. 22, 1997, 15:09 EST. This product market has been consolidating rapidly: consider, for example, GTE's acquisition of the California-based backbone Genuity, Inc. from Bechtel in November, 1997.² In the proceeding, the FCC must finally investigate and address this issue.

For the record, informed sources estimate that if this proposed merger were approved, "50-55% of backbone Internet traffic w[ould] pass over facilities owned by ... WorldCom."

² Also note WorldCom's deal with America Online and CompuServe, "under which WorldCom will exchange its acquired Csi subscriber accounts and \$175 million in cash for AOL's ANS networking division." See, e.g., Reuters newswire of Dec. 8, 1997, 13:46 EST. In that deal, WorldCom showed again its focus on business and not residential customers, trading CompuServe's residential customers for AOL's ANS division, which provides Internet access mainly for large business customers; WorldCom also got a five-year contract to service AOL's network customers. See A.P. of Sept. 8, 1997, 5:40 EDT.

See, CommunicationsWeek International of Nov. 24, 1997, "Internet Probe", quoting Michael Kleeman of the Boston Consulting Group; accord, Wilke, Gruley and Lipin in the Wall Street Journal: the new company would **control more than half of Internet traffic**; regulators are "going to have to educate [themselves] on the Internet business, and that's going to take time," said Phillip Verveer, a Washington attorney.

Not only would that market share/power be per se anticompetitive -- managers of other ISPs, those closest and most knowledgeable about this issue, are deeply concerned. For example, "Walter Prue, technical manager of the Los Angeles, California-based ISP Los Nettos, which buys upstream transit from MCI, said the forces of the combined company 'could lead to higher prices in the future.'" Internet Probe, *supra*. The practices that could result can be summarized thus: "'If one company ha[s] a large enough share of the market,' noted Gerald Brock, an interconnection expert at George Washington University in Washington DC, 'then it could use its dominant position to either take over the market or extract payments from the smaller companies.'" *Id.*

This is an issue which effects not only competitor ISPs, but consumers, including ICP and its members. The potential harm to consumers like ICP and its members is obvious, and legally cognizable. See, e.g., Reiter v. Sonotone Corp., 442 U.S. 330 (1979).

WorldCom has attempted to obscure this anticompetitive effect of its proposal. John Sidgmore, Chief Operations Office of WorldCom and UUNet President, has claimed that "[i]t's still a small amount of Internet traffic on a

worldwide basis." Internet Probe, *supra*. Significantly, however, industry executives including the general manager of the European Union backbone, Ebone, dispute WorldCom's claim: "'We all know that the majority of the traffic is in the United States, and it is also clear that UUNet has a significant presence in Europe and MCI has a lot of international connections,' said Frode Greisen" of Ebone. *Id.*

It is not clear that the appropriate geographic market in which the FCC should assess this issue is global. While the National Science Foundation at least initially required all networks hosting U.S.-funded research institutions to interconnect with other backbone, internationally, nothing requires particular providers to interconnection with one another. Already, ISPs outside of the U.S. are complaining about the high settlement fees they are being required to pay, and the imposition on them of the full price of circuits to the United States. (See protests of the Telstra Corporation of Australia, and of the Organization of Economic Development). For these reasons, ICP urges the Commission to assess the competitive effects of this proposal in the U.S. (and even regional) markets, as well as (or instead of) in the global market apparently urged by WorldCom. ICP also contends that the backbone, and control of traffic thereon, is a separate product market, and is the appropriate frame of reference in which to assess this issue.

The FCC's analysis must address and avoid incipient monopolization, and the TREND toward concentration,³ and

³ See also, Alan Pearce, "Fasten Your Seatbelts: Even More Mergers Ahead," Network World, November 17, 1997: "Although they will steadfastly deny it, it is... the Department of Justice and the Federal Communications Commission that are, in large part, responsible for the current consolidation trend in the telecommunications industry... The

should take into account, for example, GTE's acquisition of the California-based backbone Genuity, Inc. from Bechtel in November, 1997. WorldCom's November 21, 1997, amendment to its applications neither mentions nor addresses these trends; WorldCom's defenses have largely been confined to statements to the press that are not reproduced or repeated in its actual application to the FCC. The FCC, however, will be required in this proceeding to weigh the actual record before it. Expedited treatment of the applications would be inappropriate; the Applications should be amended or supplemented, and/or a hearing (which ICP is requesting) should be held on this issue.

VI. THIS PROPOSED MERGER WOULD NOT "PRESERV[E] AND ENHANC[E] UNIVERSAL SERVICE"

Both for the reasons set forth immediately above (WorldCom's increasingly anticompetitive hold on the internet backbone), and otherwise, this proposal does not pass one of the essential prongs of the FCC's current public interest test: that proposed transfers of licenses and mergers such as this "preserv[e] and enhanc[e] universal service." See *supra*. Significantly, on this issue, the New York Times' November 11, 1997, analysis piece, "The Battle for MCI: The Consumers," reported that "[t]he first group of households likely to be offered one-stop shopping for bundled phone, Internet and other services will be the 16 million affluent households with incomes of \$75,000 or more.

Justice Department and FCC have yet to deny or even significantly amend any of the mergers... So the megamergers of today will continue unabated. **They are primarily... undertaken to** strengthen a company's competitive position, please its stockholders and the financial community, and **chill competition**. MCI WorldCom, by creating a bigger threat to AT&T, may change the picture for [AT&T]. Former FCC Chairman Reed Hundt's chilling warning that an AT&T/SBC alliance would be "unthinkable" will be tested again in the near future." Emphasis added.

They run up higher phone bills and they have personal computers connected to the Internet."

There is a vicious circle, and a "double-whammy," at work here. The claimed benefit of the merger -- bundled services, "one stop shopping" -- will be targeted to more affluent customers, because they are more likely to be on the internet already. The (telecom / information) rich get richer; the (telcom / information) poor get poorer. Add to this vicious circle this fact that WorldCom is blatantly more focused on business customers than residential consumers, and it becomes clear that this merger (1) would bring few benefits to any residential consumers, and (2) would bring NO benefits to the residents of lower income communities of color⁴ that are a major focus of universal service.⁵

This proposed merger would not preserve much less enhance the principles of universal service. On this ground, either the Applications should be amended or supplemented, a hearing should be held, or the Applications should be denied.

⁴ Targeting and/or excluding on the explicit basis of income (for example, in the bundled services touted as a countervailing benefit in the Application) may run afoul of the "effects" or disparate impact test applicable to prevent seemingly permissible business practices from having unnecessary discriminatory effects in fact. The test has been successfully applied in the fields of employment, housing and consumer credit for years; it is applicable to the various telecommunications product markets at issue here.

⁵ It is also noted that the FCC is "reducing contributions by AT&T Corp and MCI Communications Corp." by "ramping down the start-up of this [wiring schools and libraries for the internet] program" by one-third in the first half of 1998. Reuters newswire of Dec. 15, 1997, 19:11 EST. Concern has been raised about MCI's and certain other carriers non-public communications with the FCC leading up to the "ramping-down" of funding for the schools / libraries portion of universal service -- see, e.g., CyberTimes, <<http://nytimes/library/cyber/week/122397fcc.html>>.

VII. "CONDITIONS" WOULD NOT BE SUFFICIENT

In approving the applications of Bell Atlantic / NYNEX and BT/MCI, the Commission conditioned its approvals on the imposition and acceptance of numerous "pro-competitive" and/or public interest conditions. The Commission stated that even after Bell Atlantic's July 19, 1997 series of commitments, that merger remained "a close case." BA/NYNEX Order at Para 12. Similarly, the Commission only approved the (now apparently moot) British Telecom/MCI proposal "subject to conditions and safeguards that ensure the merger will enhance competition in the United States." FCC Press Release of August 21, 1997, 1997 WL 476070.

The Commission should take notice that the conditions it imposed in the one of these two mergers which has actually been consummated (i.e., Bell Atlantic/NYNEX) are, even according to co-applicant MCI, not being complied with. MCI has already filed a formal complaint with the Commission charging that Bell Atlantic has violated one of the conditions of its merger with NYNEX, calling for the local carrier to connect rivals carriers to its networks at "forward looking" economic costs. The area (and number of consumers) affected by the alleged violation of the condition is by no means small: it involves local networks and consumers in Pennsylvania, New Jersey, Delaware, Maryland, Virginia, and the District of Columbia. See, e.g., the Associated Press newswire of Dec. 22, 1997, 15:33 EST.

The hypothetical conditions which might attempt to address the anticompetitive and other adverse effects of this WorldCom/MCI proposal would have to be even more expansive (and also harder to enforce) than those that MCI itself claims that Bell Atlantic has already violated. The

(co-) applicant(s) themselves call into question whether conditions could render this proposal in the public interest, convenience and necessity.

While the main benefit that the Applicant claim this proposal would have is increased combined resource for entry into local telephone markets,⁶ (1) as noted above, MCI/WorldCom's focus would foreseeably be on business customers, and not residential consumers,⁷ and (2) recent announcements, including AT&T's with regard to local telephone service, undermine this claimed benefit. See Associated Press newswire of Dec. 19, 1997, 18:13 EST: "One after the other, the nation's largest long-distance phone companies have pulled back from selling local phone services to residential customers... MCI Corporation... this past summer pulled back from the more difficult job of selling

⁶ On this issue, it cannot be ignored that WorldCom's 1996 revenues of \$5.6 billion pale in comparison, for example, with GTE's 1996 revenues of \$21 billion. Similarly, BT has little overlap with MCI in the United States, which is the case with WorldCom. To some degree, the higher price offered by WorldCom is related to/indicative of the relatively more anticompetitive nature of the WorldCom-MCI proposal - the more this combination can "chill competition," the more WorldCom can pay. See *infra*.

⁷ The New York Times' piece, "The Battle for MCI: The consumers; A Pragmatic Agenda for Residential Service," quoted from *supra*, begins by noting that WorldCom has become a powerhouse and Wall Street favorite "by sidestepping the dregs of the telecommunications industry -- the messy, less profitable business of catering to residential phone customers." The article continued on to note that John Sidgmore, vice chair of WorldCom, "said that WorldCom might well sell MCI's 20 million residential customers to other long-distance companies." While this statement was subsequent retracted, it calls into question the major countervailing benefit presented by the Applicants. "WorldCom's new-found concern for residential customers, analysts say, is mainly a pragmatic accommodation, a requirement for regulatory approval." *Id.* But, as shown by MCI's recent complaint against Bell Atlantic, it is not clear that conditions are complied with, much less permanently. This proposal should be denied.

local phone service to homes... While a glum sign for consumers, the pullbacks have cheered investors worried that local markets are turning into money pits."

Also for the record (and to contrast with the benefit the Application purports), here's what informed investors expect: Pensions & Investments of October 13, 1997, reported that investment analysts from American Express Assets Management and elsewhere "agree that pending completion of the merger, MCI probably will look at shedding its residential customer service. 'That to me would make sense... MCI could likely not only sell its residential services, but sell at a premium or a profit,' Mr. O'Connell [of American Express Assets Management] said."

While ICP is petition for the DENIAL of this proposal, *inter alia* as irretrievably anticompetitive in both the long distance and internet backbone product markets, ICP wishes to state that the only acceptable scope of divestiture of internet backbone market power would be far beyond any ordered to date by the Commission or Department of Justice ("DOJ"). This proposal is more akin to the Staples proposal rejected by the FTC than, for example, to the NationsBank-Barnett merger approved with divestitures by the Federal Reserve Board and DOJ. Following by analogy the FTC's inquiry into, and disposition of, Staples application, this proposal should be denied.

VIII. OTHER ADVERSE ISSUES WHICH MUST BE ADDRESSED

As demonstrated above, this proposal should be denied on anticompetitive, universal service and public interest grounds. There are, however, a number of other issues, including adverse managerial issues and effects on members of the public that must also be considered. For example,

Bloomberg Business News of December 24, 1997, reported that NationsBank Corp., National Bank of Canada and CIT Group have filed a potentially destabilizing lawsuit against MCI, alleging that MCI failed to reimburse them for loans -- part of which MCI helped guarantee -- made to Manatee Partners Ltd. The suit alleges that MCI refused to reimburse the banks after Manatee was unable to repay the credit. The plaintiff-lenders are seeking from MCI \$45 million, attorneys fees, and unspecified (and potentially unlimited) punitive damages.

Furthermore, the propriety of the retention bonuses proposed to be given to high level MCI employees,⁸ and the effect of the proposal on other constituencies (see, e.g., "MCI To Lay Off Hundreds of Employees, Contractors," Washington Times, Dec. 4, 1997, at B9), should be considered. What is the rationale and foreseeable effect of this proposed merger? An industry analysis from NationsBank Montgomery Securities put it this way: "'So, what do WorldCom and MCI shareholders have to look forward to if they combine? A very powerful vehicle for adding value by extracting savings from the MCI franchise that previously wouldn't have been possible to extract with the BT linkup.'" Pensions & Investments, Oct. 13, 1997, emphasis added.

Finally, as a currently-adverse procedural issue, ICP is troubled by the expiration of the comment/petition to deny period immediately following the Christmas and New Year holidays. While ICP staff and members have worked over the holidays to put this petition in Federal Express and regular mail on January 2, 1997 (see note 1, *supra*), other members

⁸ According to the Wall Street Journal, bonuses equal to 50% of their salaries in December 1997, and another 50% on December 1, 1998. MCI remains "very nervous that a bunch of their very senior people may exit," observed one informed individual. "That could jeopardize the structure of the [WorldCom] deal."

of the affected public have been needlessly prejudiced by this anti-participatory pleading cycle.⁹ As noted and requested above, ICP intends and desires to file a reply to whatever opposition or response the Applicants may file, within two weeks of January 26, 1997.

The Communications Daily of November 26, 1997, reported that "MCI / WorldCom had sought expedited review, and FCC public notice appears to mirror the quicker examination. MCI had sought end of pleading cycle by end of January, sources said." See also, "Petitioning for a Shotgun Wedding -- WorldCom, MCI Want a Quick FCC Blessing," InternetWeek, December 1, 1997: "The amended application to transfer MCI's telecommunications licenses to WorldCom came as no surprise at the FCC. 'We worked with them in drafting it to get it the way they want it so it's grantable,' said Catherine Sloan, WorldCom Vice President of federal affairs."

This may be a "permit but disclose" proceeding, but WorldCom's public representation that its application has been drafted "working with" the FCC "to get it the way they want it so it's grantable" is extremely troubling, *inter alia* because it implies pre-judgment by the FCC even before the expiration of the (anti-participatory) comment period. To remove this taint, and for the other reasons set forth above, the comment period should be re-opened and extended, and hearings held on these Applications.

⁹ ICP also wishes the FCC to be aware that, when ICP requested a copy of these Applications from WorldCom in Jackson, ICP received back a telephone message stating that only the proxy statement(s) and other SEC documents were/are public. WorldCom in Jackson declined to provide ICP with a copy of WorldCom's application to the FCC; ICP eventually obtained a copy from WorldCom's outside counsel, Swidler & Berlin Chartered, in Washington. It is foreseeable that other interested members of the public were prejudiced by WorldCom-Jackson's refusal to provide any meaningful information about WorldCom's application to the FCC, and claim that the FCC applications were "confidential." The comment period should be re-opened and extended, and other clarifying action taken.

IX. CONCLUSION

For the foregoing reasons, WorldCom's and MCI's applications, and this proposed combination, should be denied by the Commission.

Respectfully submitted,



Matthew R. Lee, Esq.
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CERTIFICATE OF SERVICE

I, Matthew Lee, do hereby certify that true and correct copies of the foregoing Petition to Deny were sent by first-class, postage prepaid mail, this 2nd day of January, 1998, to the following:

International Transcription Service, Inc.
2100 M Street, N.W., Suite 140
Washington, D.C. 20037

Network Services Division, FCC
Attn: Chief
Room 235
2000 M Street, N.W.
Washington, D.C. 20554

International Bureau, FCC
International Reference Room
Room 102
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Attn: Jean L. Kiddoo
Counsel to WorldCom, Inc.
3000 K Street, N.W.
Washington, D.C. 20007-5116; and

Federal Communications Commission
Attn: Mr. William Caton, Acting Secretary
1919 M Street, N.W.
Washington, D.C. 20554



Matthew R. Lee